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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,822	05/25/2001	John E. Davis	TRIL- 05/119	5846

7590 10/15/2002
WOOD, HERRON & EVANS, L.L.P.
2700 Carew Tower
Cincinnati, OH 45202

EXAMINER

ZEC, FILIP

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 10/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,822

Applicant(s)

DAVIS ET AL.

Examiner

Filip Zec

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-24 is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 2 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,546,960 to Billgren, in view of U.S. Patent 5,342,338 to Roe. Billgren discloses applicant's basic inventive concept, a surgical drape including an absorbent sheet (1, FIG. 2) and a fluid impermeable sheet (2), having projections (3) on the side distal from the absorbent sheet, substantially as claimed with the exception of apertures having straight sides, same having a specific length and the use of a uniform continuous layer of adhesive (or an array of adhesive spirals) between the permeable and impermeable sheets. Roe shows these features to be old in the surgical drape art (col 9, line 43; col 7, lines 10-12). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Roe to modify the surgical drape of Billgren, by adding another layer and having apertures with straight sides in order to improve the efficiency of the invention.

3. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,546,960 to Billgren, in view of U.S. Patent 5,342,338 to Roe as applied to claim 1 above, and further in view of U.S. Patent 6,248,097 to Beitz. Billgren in view of Roe discloses applicant's basic inventive concept, a surgical drape including an absorbent sheet and a fluid impermeable sheet, having projections on the side distal from the absorbent sheet, substantially

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as claimed with the exception of specifying a way in which bonding media is to be applied between the two sheets. Beitz shows this feature to be old in the surgical drape art (col 16, lines 26-29). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Beitz to modify the drape of Billgren in view of Roe, by applying the adhesive pattern in a specific way in order to improve the quality of the connection between the sheets.

4. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,546,960 to Billgren, in view of U.S. Patent 5,342,338 to Roe as applied to claim 1 above, and further in view of U.S. Patent 6,258,996 to Goldman. Billgren in view of Roe discloses applicant's basic inventive concept, a surgical drape including an absorbent sheet and a fluid impermeable sheet, having projections on the side distal from the absorbent sheet, substantially as claimed with the exception of specifying the depth of the apertures and the bond strength magnitude. Goldman shows this feature to be old in the surgical drape art (col 15, lines 22-26; col 37, lines 40-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Goldman to modify the drape of Billgren in view of Roe, by specifying the depth of the apertures and the bond strength magnitude in order to improve the quality of the product.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,546,960 to Billgren, in view of U.S. Patent 5,342,338 to Roe as applied to claim 1 above, and further in view of U.S. Patent 5,993,430 to Gossens. Billgren in view of Roe discloses applicant's basic inventive concept, a surgical drape including an absorbent sheet and a fluid impermeable sheet, having projections on the side distal from the absorbent sheet, substantially

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as claimed with the exception of specifying the thickness of the top sheet, between the apertures. Gossens shows this feature to be old in the surgical drape art (col 5, lines 57-59). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Gossens to modify the drape of Billgren in view of Roe, by specifying the thickness of the top sheet (0.5 mil to 2.0 mil) in order to improve the quality of the product.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,546,960 to Billgren, in view of U.S. Patent 5,342,338 to Roe as applied to claim 1 above, and further in view of U.S. Patent 4,839,216 to Curro. Billgren in view of Roe discloses applicant's basic inventive concept, a surgical drape including an absorbent sheet and a fluid impermeable sheet, having projections on the side distal from the absorbent sheet, substantially as claimed with the exception of specifying the pentagonal shape of the apertures. Curro shows this feature to be old in the surgical drape art (FIG.s 10 and 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Curro to modify the drape of Billgren in view of Roe, by specifying the pentagonal shape of the apertures in order to improve the quality of the product.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,546,960 to Billgren, in view of U.S. Patent 5,342,338 to Roe as applied to claim 1 above, and further in view of U.S. Patent 6,028,241 to Armstead. Billgren in view of Roe discloses applicant's basic inventive concept, a surgical drape including an absorbent sheet and a fluid impermeable sheet, having projections on the side distal from the absorbent sheet, substantially as claimed with the exception of specifying the material of the absorbent layer. Armstead shows this feature to be old in the surgical drape art (col 2, line 5). Therefore, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Armstead to modify the drape of Billgren in view of Roe, by specifying the absorbent material to be made of polyester-rayon in order to improve the quality of the product.

Allowable Subject Matter

8. Claims 16-24 are allowed.

9. Claims 2 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No.5,429,631 to Grenier, Dyandra

U.S. Pat. No.6,228,462 to Lee, Yann-Per et al.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (703) 306-3446. The examiner can normally be reached Monday through Friday, with the exception of every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone numbers for the


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organization where this application or proceeding is assigned are (703) 305-3230 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

Filip Zec
Examiner
Art Unit 3744

FZ
October 9, 2002


WILLIAM DOERRLER
PATENT EXAMINER
GROUP 3400